

SENATE BILL No. 563

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-9-43.

Synopsis: Open-market PACE programs. Authorizes the legislative body of a local governmental unit to designate an area as a clean energy improvement financing district and authorize financing of certain qualified clean energy improvements, including reduced water consumption and waste water discharges, through assessments. Requires the utility regulatory commission to adopt rules to establish technical guidelines to assist local governmental units in administering a district's program.

Effective: Upon passage.

Stoops

January 20, 2015, read first time and referred to Committee on Environmental Affairs.



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 563

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-9-43 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 43. Property Assessed Clean Energy Program**

5 **Sec. 1. As used in this chapter, "actual net energy costs", with**
6 **respect to property on which a qualified clean energy improvement**
7 **described in section 13(1) or 13(2) of this chapter is installed,**
8 **means the actual net costs for energy consumed on the property**
9 **after the installation of the qualified clean energy improvement, as**
10 **calculated:**

11 (1) during the term of the assessment period at intervals that:

12 (A) are specified by the board upon approving the
13 property owner's application under section 19 of this
14 chapter; and

15 (B) are determined in accordance with the methodology
16 established by the board under section 17(b)(6)(A) of this



- 1 chapter;
- 2 (2) by the qualified provider installing the qualified clean
- 3 energy improvement or by a utility providing retail energy
- 4 service to the property, as specified by the board; and
- 5 (3) according to a methodology using industry engineering
- 6 standards.
- 7 The term does not include any net metering surcharge to a
- 8 customer of a public utility that may be imposed by a public utility
- 9 to recover part or all of the costs of equipment or services related
- 10 to allowing the customer to generate the customer's own energy
- 11 and sell the customer's excess energy back to the public utility in
- 12 order to offset the costs of the customer's energy supplied by the
- 13 public utility.
- 14 Sec. 2. As used in this chapter, "actual net water costs", with
- 15 respect to property on which a qualified clean energy improvement
- 16 described in section 13(3) of this chapter is installed, means the
- 17 actual net costs for water consumed on the property after the
- 18 installation of the qualified clean energy improvement, as
- 19 calculated:
- 20 (1) during the term of the assessment period, at intervals that:
- 21 (A) are specified by the board upon approving the
- 22 property owner's application under section 19 of this
- 23 chapter; and
- 24 (B) are determined in accordance with the methodology
- 25 established by the board under section 17(b)(6)(A) of this
- 26 chapter;
- 27 (2) by the qualified provider installing the qualified clean
- 28 energy improvement or by a utility providing retail water
- 29 service to the property, as specified by the board; and
- 30 (3) according to a methodology using industry engineering
- 31 standards.
- 32 Sec. 3. As used in this chapter, "assessment period" means a
- 33 term of years during which an assessment imposed under this
- 34 chapter on a particular property is payable to the treasurer of the
- 35 county under section 21 of this chapter in which the property is
- 36 located, a board or a commercial lender under section 23 of this
- 37 chapter, or a third party under section 19(e) of this chapter and
- 38 that:
- 39 (1) is based on the expected useful life of the qualified clean
- 40 energy improvement to the property, as measured from the
- 41 date of final installation; but
- 42 (2) does not exceed twenty (20) years.



1 **Sec. 4.** As used in this chapter, "board" refers to a body
 2 designated in a resolution or an ordinance adopted under section
 3 17 of this chapter by:

- 4 (1) the legislative body of a unit; or
 5 (2) the legislative bodies of all participating units if two (2) or
 6 more units adopt a resolution or an ordinance under section
 7 17 of this chapter;
 8 to administer this chapter with respect to a district.

9 **Sec. 5.** As used in this chapter, "clean energy resources" means
 10 the following sources and programs for the production or
 11 conservation of electricity:

- 12 (1) Energy from wind.
 13 (2) Solar energy.
 14 (3) Photovoltaic cells and panels.
 15 (4) Energy from:
 16 (A) landfill gas to electric systems;
 17 (B) manure to gas systems; and
 18 (C) biomass anaerobic digestion facilities and biomass
 19 gasification facilities, subject to IC 13-20-10.5.
 20 (5) Geothermal heating and cooling systems.
 21 (6) Energy from waste heat recovery systems.
 22 (7) Demand side management or energy efficiency initiatives
 23 that:
 24 (A) reduce electricity consumption; or
 25 (B) implement load management, demand response, or
 26 energy efficiency measures designed to shift customers'
 27 electric loads from periods of higher demand to periods of
 28 lower demand.

29 **Sec. 6.** As used in this chapter, "commission" refers to the
 30 Indiana utility regulatory commission created by IC 8-1-1-2.

31 **Sec. 7. (a)** As used in this chapter, "conservation measure"
 32 means:

- 33 (1) an alteration of a facility, structure, building, or fixture
 34 permanently fixed to real property, including an alteration to:
 35 (A) the site on which the facility, structure, building, or
 36 fixture is located; and
 37 (B) any equipment in or on, and appurtenances to, the
 38 facility, structure, building, or fixture; or
 39 (2) a technology upgrade;
 40 designed to reduce energy or water consumption or to discharge
 41 wastewater from the property in a manner that complies with
 42 public health or environmental standards or requirements.



(b) The term includes the following:

(1) Providing insulation of the facility, structure, building, or fixture and systems in the facility, structure, building, or fixture.

(2) Installing or providing for window and door systems, including:

(A) storm windows and storm doors;

(B) caulking or weatherstripping;

(C) multiglazed windows and doors;

(D) heat absorbing or heat reflective glazed and coated windows and doors;

(E) additional glazing;

(F) a reduction in glass area; and

(G) other modifications that reduce energy consumption.

(3) Installing automatic energy control systems.

(4) Modifying or replacing heating, ventilating, or air conditioning systems.

(5) Installing or modifying lighting systems.

Sec. 8. As used in this chapter, "district" refers to a clean energy improvement financing district designated by a legislative body in a resolution or an ordinance adopted under section 17 of this chapter.

Sec. 9. As used in this chapter, "eligible property" means any of the following types of property:

(1) Commercial.

(2) Industrial.

(3) Agricultural (excluding homesteads).

(4) Property owned by an approved postsecondary educational institution (as defined in IC 21-7-13-6(a)).

(5) Property that:

(A) is owned by a nonprofit organization; and

(B) is not classified as residential for property tax purposes.

Sec. 10. As used in this chapter, "program" refers to a voluntary property assessed clean energy program established under section 17 of this chapter.

Sec. 11. As used in this chapter, "projected net energy costs", with respect to property on which a qualified clean energy improvement described in section 13(1) or 13(2) of this chapter is installed, means the projected net costs for energy consumed on the property after the installation of the qualified clean energy improvement, as calculated:



- (1) before the assessment period begins;
- (2) for the term of the assessment period, at intervals that:
 - (A) are specified by the board upon approving the property owner's application under section 19 of this chapter; and
 - (B) are determined in accordance with the methodology established by the board under section 17(b)(6)(A) of this chapter;
- (3) by the qualified provider installing the qualified clean energy improvement or by a utility providing retail energy service to the property, as specified by the board; and
- (4) according to a methodology using industry engineering standards.

The term does not include any net metering surcharge to a customer of a public utility that may be imposed by a public utility to recover part or all of the costs of equipment or services related to allowing the customer to generate the customer's own energy and sell the customer's excess energy back to the public utility in order to offset the costs of the customer's energy supplied by the public utility.

Sec. 12. As used in this chapter, "projected net water costs", with respect to property on which a qualified clean energy improvement described in section 13(3) of this chapter is installed, means the projected net costs for water consumed on the property after the installation of the qualified clean energy improvement, as calculated:

- (1) before the assessment period begins;
- (2) for the term of the assessment period, at intervals that:
 - (A) are specified by the board upon approving the property owner's application under section 19 of this chapter; and
 - (B) are determined in accordance with the methodology established by the board under section 17(b)(6)(A) of this chapter;
- (3) by the qualified provider installing the qualified clean energy improvement or by a utility providing retail water service to the property, as specified by the board; and
- (4) according to a methodology using industry engineering standards.

Sec. 13. As used in this chapter, "qualified clean energy improvement" means any of the following:

- (1) A fixture, a product, a system, a device, or an interacting



group of devices that is permanently installed behind the meter of any building to:

(A) produce electricity from one (1) or more clean energy resources; or

(B) reduce energy consumption.

(2) A conservation measure designed to reduce energy consumption.

(3) A conservation measure designed to reduce water consumption.

(4) A conservation measure designed to discharge wastewater from the property in a manner that complies with public health or environmental standards or requirements, including a project involving:

(A) the discontinuance of the use of a privy, a cesspool, a septic tank, a septic tank soil absorption system (as defined in IC 13-11-2-199.5), or another similar structure on real property producing sewage or similar waste; and

(B) the connection of the real property to a sanitary sewer system.

Sec. 14. As used in this chapter, "qualified provider" means a person that:

(1) is experienced in the design, implementation, and installation of qualified clean energy improvements; and

(2) meets any other requirements established by a legislative body in a resolution or an ordinance adopted under section 17 of this chapter.

Sec. 15. As used in this chapter, "utility" means:

(1) a public utility (as defined in IC 8-1-2-1(a));

(2) a municipally owned utility (as defined in IC 8-1-2-1(h));

(3) a utility organized under IC 8-1-11.1;

(4) a nonprofit utility;

(5) a cooperatively owned corporation;

(6) a conservancy district established under IC 14-33; or

(7) a regional district established under IC 13-26;

that provides retail energy, water, or wastewater service to the public in Indiana, regardless of whether the entity described in subdivisions (1) through (7) is under the jurisdiction of the commission.

Sec. 16. This chapter applies to all units except townships.

Sec. 17. (a) After June 30, 2015, the legislative body of a unit, or the legislative bodies of two (2) or more units, may adopt a resolution or an ordinance to:



(1) establish a voluntary property assessed clean energy program;

(2) designate a clean energy improvement financing district; and

(3) authorize within the district the financing of qualified clean energy improvements under this chapter.

If two (2) or more units adopt a resolution or an ordinance under this section, each participating unit must be contiguous to at least one (1) other participating unit.

(b) A resolution or an ordinance adopted under subsection (a) must do the following:

(1) Establish the geographic boundaries of the proposed district.

(2) Designate one (1) of the following as the board responsible for administering this chapter with respect to the district:

(A) The members of the legislative body. Subject to subsection (c)(2), if two (2) or more units adopt a resolution or an ordinance under this section, the board may consist of one (1) or any combination of the participating units' legislative bodies.

(B) The members of a redevelopment commission established under IC 36-7 for the unit. Subject to subsection (c)(2), if two (2) or more units adopt a resolution or an ordinance under this section, the board may consist of one (1) or any combination of the participating units' redevelopment commissions.

(C) A new body consisting of members who are:

(i) appointed by the legislative body of the unit for terms specified by the legislative body of the unit; and

(ii) qualified by knowledge and experience to administer this chapter with respect to the district.

A body designated under this clause must have an odd number of members. Not more than one-half (1/2) the number of members of the body plus one (1) may be members of the same political party. Subject to subsection (c)(2), if two (2) or more units adopt a resolution or an ordinance under this section, the board must consist of a number of members appointed by the legislative body of each participating unit. The number of members appointed by any one (1) participating unit must bear the same proportion to the total number of members of the board that the number of eligible properties that are located both



in the appointing unit and in the district bears to the total number of eligible properties in the district.

(3) Describe the proposed method of financing of qualified clean energy improvements installed in the district. Permissible methods include one (1) or more of the following:

(A) Soliciting owner arranged financing from a commercial lender.

(B) Obtaining federal or state:

(i) grants;

(ii) loans; or

(iii) both grants and loans;

subject to any applicable program requirements for the grants or loans obtained.

(4) Establish the qualifications for qualified providers under the program, including any required performance bond to ensure a qualified provider's faithful performance of the qualified provider's obligations over the term of the assessment period for a qualified clean energy improvement.

(5) Require that only a qualified provider or a utility, or an employee or agent of either, may install equipment in, make modifications to, or remodel a facility, structure, building, or fixture in connection with the installation of a qualified clean energy improvement under the program.

(6) For qualified clean energy improvements described in section 13(1) through 13(3) of this chapter, establish the following:

(A) A methodology for determining:

(i) intervals during the term of an assessment period for which a qualified provider or a utility must calculate, before the assessment period begins, projected net energy costs or projected net water costs, as applicable; and

(ii) corresponding intervals during the term of the assessment period for which a qualified provider or a utility must calculate, during the term of the assessment period, actual net energy costs or actual net water costs, as applicable.

A methodology established under this clause must ensure that the intervals described in items (i) and (ii) are based on the number of years in the assessment period, and on the particular type of qualified clean energy improvement and the technology involved.



(B) For qualified clean energy improvements described in section 13(1) through 13(3) of this chapter that are financed with more than two hundred fifty thousand dollars (\$250,000) in assessments, a reconciliation mechanism to:

- (i) account for any variance between projected net energy costs and actual net energy costs, or between projected net water costs and actual net water costs, as applicable, at the intervals specified by the board in accordance with the methodology described in clause (A); and
- (ii) provide for a refund or credit to the property owner, or a payment or surcharge from the property owner, as appropriate, to adjust for the variance, at such times as the board may prescribe.

In establishing a methodology under clause (A) or a reconciliation mechanism under clause (B), the legislative body of the unit or units may consult the technical guidelines established by the commission in rules adopted under section 25 of this chapter.

(7) Limit participation in the program to owners of eligible property.

(c) If the legislative bodies of two (2) or more units adopt a resolution or an ordinance under this section, the resolution or ordinance adopted by each legislative body must:

- (1) comply with subsection (b); and
- (2) be identical to those adopted by all other participating units.

(d) The boundaries of a district need not coincide with those of any one (1) or more units, subject to the requirement set forth in subsection (a) with respect to the boundaries of participating units in the case of a district established under this section by two (2) or more units.

Sec. 18. In addition to other powers exercised by a legislative body designated as a board, the board may do the following with respect to a program:

- (1) Make and enter into contracts and other instruments with public and private entities.
- (2) Accept grants, guarantees, and donations of property, labor, services, and other things of value from any public or private source.
- (3) Employ or contract for managerial, legal, technical,



1 clerical, accounting, or other assistance.

2 (4) Levy and collect assessments in accordance with sections
3 19 through 23 of this chapter.

4 (5) Borrow money from any public or private source.

5 (6) Provide for the investment of any funds not required for
6 immediate disbursement in the same manner as other
7 municipal funds are invested.

8 (7) Subject to section 22 of this chapter, record an assessment
9 as a lien on an assessed property.

10 (8) Develop appropriate underwriting guidelines for the
11 program, including:

12 (A) assurances that the assessment period for any qualified
13 clean energy improvement under the program does not
14 exceed the expected useful life of the improvement as
15 measured from the date of final installation;

16 (B) the appropriate ratio of an assessment under this
17 chapter to the assessed value of the property subject to the
18 assessment, as determined after the installation of a
19 qualified clean energy improvement to the property; and

20 (C) verification that a property owner does not owe
21 delinquent property taxes, special assessments, or sewer
22 charges.

23 (9) Exercise other powers necessary to carry out the board's
24 responsibilities under this chapter.

25 Sec. 19. (a) A property owner that desires to participate in a
26 program established under this chapter shall submit an application
27 to the board in the form and according to a schedule determined by
28 the board. The application must contain the following:

29 (1) The address and legal description of the property on which
30 the qualified clean energy improvement for which the
31 property owner desires financing will be installed.

32 (2) A description and the cost of all qualified clean energy
33 improvements proposed to be installed on the property.

34 (3) An agreement, separately signed by the property owner,
35 to participate in the financing of the qualified clean energy
36 improvement through the imposition of an assessment on the
37 property.

38 (4) A statement showing no delinquent property taxes, special
39 assessments, or sewer charges for the property for the shorter
40 of the following:

41 (A) The two (2) immediately preceding taxable years.

42 (B) The period during which the property owner has



- 1 owned the property.
- 2 (5) An agreement, separately signed by the property owner,
- 3 to have a qualified provider or a utility, as specified by the
- 4 board, perform a baseline audit with respect to the property
- 5 to verify to the board that the qualified clean energy
- 6 improvement is installed properly and is operating as
- 7 intended, and to establish the following:
- 8 (A) In the case of a qualified clean energy improvement
- 9 described in section 13(1) of this chapter, the projected net
- 10 energy costs with respect to the property, at the intervals
- 11 determined by the board in accordance with the
- 12 methodology established by the board under section
- 13 17(b)(6)(A) of this chapter. If the property owner
- 14 participates in a net metering or feed-in-tariff program
- 15 offered by an electric utility with respect to the qualified
- 16 clean energy improvement, projected net energy costs
- 17 under this clause may be calculated based on the energy
- 18 costs for the property absent the property owner's
- 19 participation in the net metering or feed-in-tariff program,
- 20 as applicable.
- 21 (B) In the case of a qualified clean energy improvement
- 22 described in section 13(2) of this chapter, the projected net
- 23 energy costs with respect to the property, at the intervals
- 24 determined by the board in accordance with the
- 25 methodology established by the board under section
- 26 17(b)(6)(A) of this chapter.
- 27 (C) In the case of a qualified clean energy improvement
- 28 described in section 13(3) of this chapter, the projected net
- 29 water costs with respect to the property, at the intervals
- 30 determined by the board in accordance with the
- 31 methodology established by the board under section
- 32 17(b)(6)(A) of this chapter.
- 33 (D) In the case of a qualified clean energy improvement
- 34 described in section 13(4) of this chapter, that the
- 35 discharge of wastewater from the property will occur in a
- 36 manner that complies with public health or environmental
- 37 standards or requirements as a result of the installation of
- 38 the qualified clean energy improvement.
- 39 A baseline audit described in this subdivision shall be
- 40 performed after the qualified clean energy improvement is
- 41 installed and before the assessment period begins.
- 42 (6) For a qualified clean energy improvement financed with



1 more than two hundred fifty thousand dollars (\$250,000) in
 2 assessments, the following:

3 (A) In the case of a qualified clean energy improvement
 4 described in section 13(1) through 13(3) of this chapter, an
 5 agreement, separately signed by the property owner, to
 6 provide the board, at the intervals determined by the
 7 board in accordance with the methodology established by
 8 the board under section 17(b)(6)(A) of this chapter:

- 9 (i) the actual net energy costs for the property; or
 10 (ii) the actual net water costs for the property;

11 as applicable.

12 (B) In the case of a qualified clean energy improvement
 13 described in section 13(1) or 13(2) of this chapter, a written
 14 guarantee by the qualified provider or the utility, as
 15 applicable, that:

- 16 (i) the qualified clean energy improvement will achieve
 17 a net energy cost savings to investment ratio greater than
 18 one (1) over the term of the assessment period; and
 19 (ii) if the actual net energy costs at a particular interval
 20 exceed the projected net energy costs for that interval,
 21 the qualified provider or the utility will pay or credit to
 22 the property owner the difference between the actual net
 23 energy costs and the projected net energy costs, at the
 24 times and subject to any reconciliation mechanism the
 25 board may prescribe upon approving the property
 26 owner's application under this section.

27 (C) In the case of a qualified clean energy improvement
 28 described in section 13(3) of this chapter, a written
 29 guarantee by the qualified provider or the utility, as
 30 applicable, that:

- 31 (i) the qualified clean energy improvement will achieve
 32 a net water cost savings to investment ratio greater than
 33 one (1) over the term of the assessment period; and
 34 (ii) if the actual net water costs at a particular interval
 35 exceed the projected net water costs for that interval, the
 36 qualified provider or the utility will pay or credit to the
 37 property owner the difference between the actual net
 38 water costs and the projected net water costs, at the
 39 times and subject to any reconciliation mechanism the
 40 board may prescribe upon approving the property
 41 owner's application under this section.

42 (b) The board shall:



1 (1) review; and

2 (2) approve or deny;

3 an application submitted under subsection (a) according to a
4 schedule determined by the board. The board shall use the costs
5 reported under subsection (a)(2) to impose an assessment on each
6 property for which an application is approved. The decision of the
7 board as to all assessments is final and conclusive on all parties.

8 (c) A property owner may withdraw or amend an application at
9 any time before an assessment is imposed on the owner's property
10 under subsection (b) and recorded in an assessment roll under
11 section 20 of this chapter.

12 (d) The board shall communicate with all parties having an
13 interest in a property for which an application is approved in a
14 manner consistent with the procedures and practices for special
15 assessments.

16 (e) A board that imposes an assessment may:

17 (1) allow a third party that has provided financing for a
18 qualified clean energy improvement to collect the assessments
19 with respect to the qualified clean energy improvement; and

20 (2) require the third party to inform the board if an
21 installment of an assessment is delinquent.

22 Sec. 20. (a) The board shall prepare an assessment roll and,
23 subject to any withdrawal or amendment of an application under
24 section 19(c) of this chapter, enter the amount of the assessment
25 imposed on each property in the district for which one (1) or more
26 qualified clean energy improvements will be financed under this
27 chapter in the amount of the assessment. The assessment roll must
28 include the following for each property subject to an assessment
29 under this chapter:

30 (1) The name of the owner.

31 (2) A description of the property.

32 (3) The total assessment.

33 (4) The annual installment of the assessment determined
34 under section 21 of this chapter.

35 An assessment against a property on the assessment roll is
36 presumed to be of special benefit to the property.

37 (b) The board shall complete and confirm the assessment roll
38 and record the completed assessment roll and any later additions
39 to the assessment roll with the county recorder of each county in
40 which a property listed on the roll is located. A county recorder
41 who records an assessment roll under this subdivision shall
42 cross-reference the assessment roll on the most recent deed of



1 record in the recorder's office for each property listed on the roll.
 2 The recorder shall charge a fee in accordance with IC 36-2-7-10,
 3 which may be assessed from the property owner.

4 Sec. 21. (a) Subject to this chapter, an assessment shall be paid
 5 in the installments and to the persons specified in the agreement
 6 entered into under section 19 of this chapter. The annual amount
 7 payable for all installment payments in a year on an assessment is
 8 equal to the quotient of:

9 (1) the total assessment determined for the property under
 10 this chapter; divided by

11 (2) the number of years in the assessment period.

12 Subject to subsection (c), the amount shall be billed to a property
 13 regardless of any changes in ownership of the property. A change
 14 in ownership of the property does not accelerate or otherwise alter
 15 the term of the assessment period.

16 (b) The board shall, if sections 19(e) and 23(2) of this chapter do
 17 not apply to an assessment, and the board may, if section 19(e) or
 18 23(2) of this chapter applies to an assessment and an owner fails to
 19 pay one (1) or more installments of the assessment when due,
 20 certify the following to the county auditor of each county where the
 21 property is located:

22 (1) The name of each owner of the property.

23 (2) The description of the property, as shown by the records
 24 of the county auditor.

25 (3) The amount of the unpaid annual installment of the
 26 assessment determined under this section.

27 The certification must be made not later than the applicable date
 28 under IC 36-2-6-14.5. The county auditor shall place the total
 29 amount certified under this subsection on the tax duplicate for the
 30 affected property as a special assessment. All special assessments
 31 certified under this subsection are payable to the treasurer of the
 32 county in which the property that is subject to the special
 33 assessment is located. A county treasurer shall bill, collect, and
 34 enforce the special assessments in the same manner that property
 35 taxes are billed, collected, and enforced. The county treasurer shall
 36 specify on each property tax statement that the special assessment
 37 under this subsection is separate and distinct from ad valorem
 38 property taxes and other special assessments. A county treasurer
 39 shall distribute special assessments collected under section 23(1) of
 40 this chapter, or collected in connection with one (1) or more
 41 delinquent installments under section 19(e) or 23(2) of this chapter,
 42 to the county auditor for deposit in a separate, special fund from



1 which payments to commercial lenders or other third parties that
2 provide financing may be made.

3 (c) The property owner who submitted the original application
4 under section 19 of this chapter for a qualified clean energy
5 improvement, and any subsequent owner of the property, may pay
6 off the total amount of an assessment for the property before the
7 end of the applicable assessment period without penalty. Upon
8 payment in full of the total amount of the assessment, including any
9 interest or penalties owed, the board shall cause the property to be
10 removed from the assessment roll prepared and recorded under
11 section 20 of this chapter, and shall release any lien for an
12 assessment recorded under section 22 of this chapter with respect
13 to the property.

14 Sec. 22. (a) An assessment against real property under this
15 chapter constitutes a lien against the property assessed. The lien is
16 superior to all other liens except:

17 (1) notwithstanding section 18(8)(C) or 19(a)(4) of this
18 chapter, liens for delinquent property taxes, special
19 assessments certified under a provision other than this
20 chapter, or sewer charges; and

21 (2) a first lien mortgage or subordinate lien mortgage;
22 recorded with respect to the property before the assessment roll
23 listing the property is recorded under section 20(b) of this chapter.

24 (b) Notwithstanding IC 6-1.1-22-13.5, a lien for an assessment
25 under this chapter attaches in the manner liens attach under
26 IC 36-9-23. In addition to the procedures for the collection and
27 enforcement of a special assessment certified under section 21(b)
28 of this chapter, a lien under this chapter may be enforced and
29 foreclosed in the manner liens are enforced and foreclosed under
30 IC 36-9-23.

31 Sec. 23. A board may authorize the financing of qualified clean
32 energy improvements with owner arranged financing from a
33 commercial lender. Under this arrangement, the board may levy
34 an assessment under section 19 of this chapter and either:

35 (1) collect assessment payments and forward the payments to
36 the commercial lender; or

37 (2) authorize a property owner to pay the assessments directly
38 to the commercial lender.

39 If the board authorizes a property owner to pay the assessments
40 directly to the commercial lender under subdivision (2), the board
41 may require the commercial lender to inform the board if an
42 installment of an assessment is delinquent.



1 **Sec. 24. Energy that is conserved, or that is produced from one**
 2 **(1) or more clean energy resources, on a property on which a**
 3 **qualified clean energy improvement is installed under a program**
 4 **established under this chapter must be:**

5 **(1) designated as an energy savings; and**

6 **(2) credited to the utility providing retail energy service to the**
 7 **property;**

8 **for purposes of any initiative, rule, or order approved by the**
 9 **commission to promote the efficient use and production of**
 10 **electricity, including initiatives to implement demand side**
 11 **management, energy efficiency, or conservation measures in**
 12 **accordance with commission rules, regardless of whether the**
 13 **qualified clean energy improvement qualifies for a rebate program**
 14 **offered by the utility.**

15 **Sec. 25. (a) Not later than June 15, 2015, the commission shall**
 16 **adopt rules under IC 4-22-2 to establish technical guidelines to**
 17 **assist units in administering a program under this chapter,**
 18 **including guidelines that units may use to do the following:**

19 **(1) For qualified clean energy improvements described in**
 20 **section 13(1) through 13(3) of this chapter, determine the**
 21 **appropriate intervals during the term of an assessment period**
 22 **at which to require a qualified provider or a utility to**
 23 **calculate:**

24 **(A) projected net energy costs or projected net water costs;**
 25 **and**

26 **(B) actual net energy costs or actual net water costs;**
 27 **for particular types of qualified clean energy improvements,**
 28 **based on the number of years in the assessment period for the**
 29 **qualified clean energy improvement and the technology**
 30 **involved, as described in section 17(b)(6)(A) of this chapter.**

31 **(2) For qualified clean energy improvements described in**
 32 **section 13(1) through 13(3) of this chapter that are financed**
 33 **with more than two hundred fifty thousand dollars (\$250,000)**
 34 **in assessments, establish a reconciliation mechanism to:**

35 **(A) account for any variance between projected net energy**
 36 **costs and actual net energy costs, or between projected net**
 37 **water costs and actual net water costs, as applicable, at the**
 38 **intervals described in subdivision (1); and**

39 **(B) provide for a refund or credit to the property owner, or**
 40 **a payment or surcharge from the property owner, as**
 41 **appropriate, to adjust for the variance;**

42 **as described in section 17(b)(6)(B) of this chapter.**



1 (b) The commission may adopt emergency rules in the manner
2 provided by IC 4-22-2-37.1 to implement this section.
3 Notwithstanding IC 4-22-2-37.1(g), an emergency rule described in
4 this subsection expires on the date a rule that supersedes the
5 emergency rule is adopted by the commission under IC 4-22-2-24
6 through IC 4-22-2-36.

7 Sec. 26. Participation in a voluntary property assessed clean
8 energy program established under section 17 of this chapter does
9 not exempt property or a participant from any net metering
10 surcharge to a customer of a public utility that may be imposed by
11 a public utility to recover part or all of the costs of equipment or
12 services related to allowing the customer to generate the
13 customer's own energy and sell the customer's excess energy back
14 to the public utility in order to offset the costs of the customer's
15 energy supplied by the public utility, regardless of when the
16 participant installed qualified clean energy improvements under
17 this chapter.

18 SECTION 2. An emergency is declared for this act.

